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HOUSE BILL 2319

By Kisber

AN ACT to amend Tennessee Code Annotated, Title 50, Chapter 6 and Title 56, relative to employers that fail to carry workers' compensation insurance.

WHEREAS, in Section 2 of Public Chapter 217 of the Acts of 1999 the General Assembly directed the Special Joint Committee of the General Assembly on Workers' Compensation to "review issues and provide recommendations relating to covered employers' failure to comply with the insurance provisions of the workers' compensation law and the need to ensure the timely provision of workers' compensation benefits to workers injured during periods of employer noncompliance"; and

WHEREAS, the Committee and the Advisory Council on Workers' Compensation have conducted this study and have issued recommendations to the General Assembly on this matter; and

WHEREAS, the Committee introduces this legislation to enact these recommendations; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 50, Chapter 6, is amended by adding Sections 2 through 4 as a new part to be appropriately designated.

SECTION 2. (a) There is hereby created the uninsured employers fund as an account in the general fund which shall be invested pursuant to Tennessee Code Annotated, Section 9-4-603. Moneys from the fund may be expended to fund activities authorized by this act. Any revenues deposited in this reserve shall remain in the reserve until expended for purposes consistent with this part, and shall not revert to the general fund on any June 30. Any excess revenues on interest earned by such revenues shall not revert on any June 30, but shall remain available for appropriation in subsequent fiscal years. Any appropriation from such reserve shall not revert to the general fund on any June 30, but shall remain available for expenditure in subsequent fiscal years.

(b) The uninsured employers fund shall be administered by the commissioner of labor and workforce development.

(c) The fund may receive revenues that shall include all penalties assessed and collected from uninsured employers and amounts recovered from employers representing payments made by the fund to injured workers.

(d) The fund shall be used to pay benefits to injured workers eligible for benefits under the program established by Section 3 and for payment of expenses related to administration of the program.

SECTION 3. (a) The commissioner of labor and workforce development shall administer an uninsured employers program.

(b) In administering the program, the commissioner is authorized to retain a third party administrator by contract to administer claims under the commissioner's supervision. The commissioner is also authorized to retain private counsel to defend the uninsured employers fund with the approval of the governor and the attorney general and reporter.

(c) The governor, the attorney general and reporter and the comptroller of the treasury may jointly agree to delegate to the commissioner the authority to settle claims against the fund under whatever conditions the three officials agree to be appropriate. The commissioner is authorized to delegate to a third party administrator such settlement authority as the commissioner deems appropriate and lawful.

SECTION 4. The commissioner of labor and workforce development is authorized to promulgate rules and regulations to effectuate the purposes of this act. All such rules and regulations shall be promulgated in accordance with the provisions of Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 5. This act shall take effect July 1, 2000, the public welfare requiring it.